

Certificates of Resale must contain the information required in 86 Ill. Adm. Code 130.1405.
(This is a GIL.)

November 3, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 11, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are writing to you for a ruling on a situation involving LLC and COMPANY. The separate divisions of ABC held seminars for their employees at the Center. We are the exclusive Caterer at the Center and we are located within the center.

ABC ordered Food and Beverage for their employees attending the meetings. The food & beverage was prepared by COMPANY and consumed on site. Following each event we invoiced ABC. The total for food & beverage was \$\$ and included sales tax of \$, (10%) When we received the checks, LLC had deducted the 10% state of Illinois tax and the VILLAGE tax. Along with their first payment was a letter from LLC. This letter indicated that LLC is the 'purchasing arm' for ABC. Included was a copy of the Illinois Department of Revenue reseller certificate along with a uniform sales & use tax certificate, multi-jurisdiction form.

We contacted LLC., to address our concerns. We do not consider this a resale purchase. COMPANY has conducted business with many large companies. All these companies have been charged sales tax and have made payment that included the 10% tax.

The nature of business for ABC is PRODUCTS and not the food industry. COMPANY is questioning whether or not this is a resale purchase. LLC has decided not to pay the tax. We would like the State of Illinois to advise us. If the state of Illinois finds that this is

considered resale will we need to have all the paperwork changed to LLC., after the fact? If this is not considered resale will we be responsible to try & collect the taxes or with the State of Illinois step in.

We wish to handle this in a proper way so as not to discourage our working relationship with ABC in the future. This is a considerable amount of sales tax and we believe it is in our best interest to have the State of Illinois step in and make the decision now rather than during our annual audit.

Thank you for your assistance in this matter.

DEPARTMENT'S RESPONSE:

Generally, it is our understanding that purchasers of catering services do not purchase those services for resale. However, based on the representations in the letter you received from LLC, you may accept a certificate of resale for this transaction. A seller's responsibility and obligations regarding sales for resale may be found at 86 Ill. Adm. Code 130.1401 and 130.1405. See also, General Information Letter ST 02-0258-GIL regarding sales for resale on the Department's website under its "Sunshine" letter rulings.

As sellers required to collect Illinois tax, the sellers must either charge tax or document exemptions when they make sales in Illinois. In order to document the fact that their sales to specific purchasers are sales for resale, sellers are obligated to obtain valid certificates of resale from those purchasers. See 86 Ill. Adm. Code 130.1405.

Certificates of resale must contain the following information:

1. A statement from the purchaser that items are being purchased for resale;
2. Seller's name and address;
3. Purchaser's name and address;
4. A description of the items being purchased for resale;
5. Purchaser's signature and date of signing;
6. Purchaser's registration number with the Illinois Department of Revenue; Purchaser's resale number issued by the Illinois Department of Revenue; or, a statement that the purchaser is an out-of-State purchaser who will sell only to purchasers located outside the State of Illinois.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk